

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

CRIMINAL NO. 11-CR-20129

v.

Hon. ROBERT H. CLELAND

D- 10 VERNON NELSON RICH,
a/k/a "Vern"

Defendant.

**GOVERNMENT'S WRITTEN PROFFER IN SUPPORT
OF ITS REQUEST FOR DETENTION PENDING TRIAL**

On July 13, 2012, the United States moved for pretrial detention of defendant VERNON NELSON RICH on the basis that he is a clear danger to the community and a significant flight risk. Furthermore, based upon the nature of the charges, pursuant to 18 U.S.C. § 3142(e)(3), there is a rebuttable presumption that the defendant is a danger to the community, and that no condition or combination of conditions will reasonably assure the defendant's presence as required¹. The government maintains that VERNON NELSON RICH should be detained pending trial.

In addition to the information contained in the Pretrial Services Report of the U.S. Pretrial Services Officer, the government proffers the following supplemental information pursuant to 18 U.S.C. § 3142 (f):

I. INTRODUCTION

VERNON NELSON RICH is longtime member of the Devils Diciples Motorcycle Club

¹ Vernon Rich is also charged in a separate indictment, United States v. Jeff Garvin Smith, et.al. Case No. 11-cr-20066, which has been assigned to the Hon. Marianne Battani, United States District Judge.

(DDMC) who actively participated in the DDMC's criminal activity. VERNON NELSON RICH is a high ranking member of the Devils Diciples Motorcycle Club (DDMC) who actively participated in and supervised the DDMC's crime wave across Michigan and other states. NELSON is a past President of the Port Huron Chapter of the DDMC. During the course of the charged conspiracies, RICH and the DDMC distributed a massive amount of methamphetamine, hydrocodone, and other drugs. During the time frame specified in the Third Superseding Indictment, members of the DDMC have (a) shot and killed three people in two separate incidents, (b) shot and wounded two people in two separate incidents, (c) savagely assaulted four people and left them for dead in the desert, (d) severely beat a disabled man and broke his jaw in two places, and (e) beat and assaulted countless individuals. As described below, RICH played an active role in this pattern of violence and obstruction of justice.

II. FACTS

A. Overview of DDMC

According to the Third Superseding Indictment, the Devils Diciples Motorcycle Club (DDMC) is an outlaw motorcycle gang reputedly formed in California in the late 1960's. Today, the national headquarters of the gang is located in Mt. Clemens, Michigan. The DDMC has more than 150 members, located mostly in Michigan, California, Alabama, Arizona, Indiana, and Ohio. They also have "nomads" who are not affiliated with any particular chapter but are still considered members. Since the DDMC is not as big as other motorcycle gangs, the chapters work closely together and the national leadership is more intimately involved in day-to-day affairs of the chapters than other gangs.

The enterprise structure of the DDMC is very similar to the hierarchical structure commonly

associated with other motorcycle gangs and other organized crime groups. JEFF SMITH has been the National President for about 25 years and is their undisputed leader for both legal and illegal club activities. PAUL DARRAH is the National Vice President. The DDMC also has a National Treasurer and a National Warlord. Beneath the national structure, each local chapter has a similar structure. For example, GARY NELSON was the President of the Blue Water, Michigan chapter. VERNON RICH was the President of the Port Huron, Michigan chapter.

The primary money-making activity of the gang is drug trafficking, mostly methamphetamine, but the DDMC also sells some marijuana and prescription drugs. The DDMC manufactures a large portion of the methamphetamine sold and uses both the red phosphorus and “shake and bake” methods for producing the drug. A secondary money-making activity of the DDMC is illegal gambling. The DDMC placed slot machines in DDMC clubhouses and other locations, and sold “raffle” tickets for DDMC events, the proceeds of which supports the organization and individual members.

DDMC members are expected to abide by DDMC by-laws, which include both written and oral rules. Punishment or disciplinary action for violations of DDMC rules includes assaults (sometimes called “Black Eyes”), fines, seizure of property, and/or expulsion from the organization. On several occasions as described herein, the disciplinary action resulted in death or attempted murder.

There are three stages of membership in the DDMC. All non-members are called “citizens.” A citizen is permitted to socialize with the DDMC and attend some club parties, but a citizen can not participate in any official club activities. In order to join the club, a citizen would befriend a member and become an associate, the first stage toward joining the DDMC. This stage allows the

DDMC to observe the associate and the associate to observe the DDMC. Once the associate and the DDMC expressed a mutual interest in the citizen joining the gang, the associate enters the second stage and becomes a “prospect.” Prospects are required to submit to orders and directives from DDMC members, which could include physical assaults. The prospect period could last from a few minutes to a few months before entering the third stage and becoming a full-patch wearing member. Before becoming a full-patch member, a prospect is required to have a powerful Harley Davidson motorcycle in working order.

DDMC members wear the vestments of their membership proudly and publically. They routinely wear leather vests which include chapter and club membership information surrounding the emblem of the DDMC. Members sometimes receive patches for deeds performed on behalf of the club. When a member leaves the club, the member is forced to return all DDMC related items, including tattoos, which are either burned off or covered in black tattoo ink. The DDMC usually attempts to confiscate a former member’s motorcycle, by force if necessary.

Women can not become members, but are regarded as personal property. Wives, girlfriends, and female associates are required to provide financial and other support for DDMC members - typically working in bars or strip clubs. They frequently are required to participate in the club’s illegal activities, including drug trafficking and obstruction of justice. The DDMC frequently use women as drug mules. Women can aspire to earn a “Property Of” vestment to signify their relationship to a DDMC member. This vestment protects women from being assaulted by other members. Women without protection from a member are fair game for sexual assault.

DDMC members are required to attend regular meetings, sometimes known as “church” and motorcycle riding events known as “runs.” Failure to attend a meeting could subject the member

to disciplinary action. Members are also expected to follow orders from the National President or Chapter President, including to assault another member, to distribute drugs, to seize property, to lie to law enforcement, to intimidate witnesses, and to otherwise protect the DDMC organization and members.

DDMC members are required to pay monthly dues to the chapter and yearly dues to the national organization. Members are also subjected to fines, taxes on illegal income, and special assessments. Many DDMC members generate a profit from illegal activities such as drug dealing or illegal gambling and are required to pay a portion of the proceeds to the organization. The organization uses these funds often to pay club expenses and to provide a bail and legal defense fund for members who have been arrested. DDMC members have, in the past, also been required to obtain a life insurance policy naming another DDMC member as the beneficiary.

Over the years, the DDMC has been involved in a systemic pattern of obstruction of justice and witness intimidation. DDMC members have often raised money to assist members who face criminal prosecution. It is common for a DDMC member who is under investigation or prosecution in one jurisdiction to flee to a DDMC clubhouse in another jurisdiction in an attempt to evade prosecution. DDMC members have often assisted DDMC members facing prosecution by committing perjury, intimidating or threatening prospective witnesses, or otherwise obstructing justice. For example, when DDMC member VICTOR CASTANO faced federal drug and firearms charges, the DDMC leadership arranged for a DDMC member and his girlfriend to perjure themselves during his trial in an attempt to get CASTANO acquitted.

B. Evidence

The government has a staggering amount of evidence to prove these charges. More than a

dozen current or former DDMC members are cooperating with the FBI's investigation and are ready to testify at trial about the DDMC's criminal activities. This testimony will be supported by (a) Title III intercepted phone calls between DDMC members discussing these crimes, (b) drug seizures by the FBI and other law enforcement officers; (c) controlled purchases of methamphetamine from DDMC members; (d) and evidence seized from more than a dozen search warrants executed at DDMC clubhouses, DDMC methamphetamine laboratories, and other DDMC related addresses.

C. Role in the Offense

VERNON NELSON RICH is a longtime DDMC member from Michigan, and has held significant leadership positions, including President of the Port Huron Chapter. RICH actively participated in drug trafficking, firearms related offenses, illegal gambling, and obstruction of justice.

VERNON RICH was heavily involved in drug trafficking on behalf of the DDMC, specifically methamphetamine manufacturing and distribution, marijuana and hydrocodone distribution. As detailed in the Third Superseding Indictment, RICH actively participated in the sale of more than 45 grams of methamphetamine to a cooperating defendant, transported \$60,000 worth of methamphetamine (approximately 5 pounds) from California/Arizona to Michigan in a fake tail-pipe that was affixed to his motorcycle, packaged and distributed multiple pound quantities of marijuana, and sold hydrocodone. Evidence of RICH's drug trafficking activities includes numerous Title III wire interceptions over RICH's cellular telephone, and consensual recordings, controlled buys, seizures of methamphetamine, marijuana, hydrocodone, and other prescription medications, as well as drug trafficking and methamphetamine manufacturing related materials all from RICH, his home and vehicles, testimony from cooperating witnesses.

In addition, on October 29, 2007, RICH's vehicle was stopped by police, and he was found in possession of (small quantities of) methamphetamine, marijuana and approximately \$1,900 in cash. Court authorized Title III wire interceptions over RICH's telephone showed that just prior to the car stop, RICH was making plans to distribute drugs to defendant PAULA MILEHA FRISCONI. After the cash was seized by the police department as drug proceeds, RICH attempted to obstruct justice by soliciting FRISCONI to draft a false letter that claimed the seized cash was income RICH earned during the course of his employment at ABZ Steel. In addition, after police took RICH into custody, RICH became concerned that law enforcement would execute a search warrant at his home, and called DDMC members, including EDWARD TAYLOR and defendant LAURI LEDFORD and others and asked them to go to his home and hide and/or dispose of items believed to be drug trafficking related, from his home.

RICH played a lead role in the DDMC's illegal gambling activity. After defendant MICHAEL MASTROMATTEO was sent to federal prison, RICH took over ownership and operation of the slot/poker machines in several locations throughout the DDMC, and shared profits from the machines with the DDMC and its leadership. The evidence of illegal gambling against RICH includes numerous Title III wire interceptions in which RICH openly discusses his ownership and operation of gambling machines on behalf of the DDMC; seizures of slot/poker machines, keys, paperwork and records from DDMC clubhouses and RICH's residence; pole camera videos, and the testimony of cooperating witnesses.

Search warrants executed at RICH's home on different dates have led to the seizure of, among other items, methamphetamine, marijuana, a large quantity of hydrocodone and other controlled substances, drug trafficking materials such as scales, a grinder, packaging, firearms and

ammunition.

D. Criminal Record

VERNON NELSON RICH has a 1982 conviction for Larceny. He served 2 years probation. He was convicted in 1984 of disorderly conduct, and received 30 days in jail. He was convicted in 1984 of larceny, and received 2 years probation. Rich was convicted in 1985 of disorderly conduct, and received only a fine. He was convicted in 1990 of habitually giving a worthless check, and received a sentence of 1- 3 years in prison. This sentence was modified to 5 years probation. In 1991, Rich was convicted of violating his probation and his original sentence of 1-3 years was reinstated. He was convicted in 1991 of larceny of a building, and received 90 days in jail. He was convicted in 1994 with the illegal discharge of a firearm, and received a fine. Rich was convicted in 2005 with possession of marijuana and concealing or misrepresenting a motor vehicle ID, and received a sentence of 6 months in jail and 2 years probation. In 2007, Rich was convicted of possession of methamphetamine. The sentence is unknown. In 2008, he was arrested for possession of a firearm by a convicted felon, and that charge was dismissed. Finally, in 2009, Rich was arrested for use of a communication device in furtherance of a drug trafficking crime, and that charge was dismissed.

E. Charges

Defendant VERNON NELSON RICH is charged in the Third Superseding Indictment with:

- Count 1 – Conspiracy to violate the Racketeer Influenced and Corrupt Organizations Act (RICO);
- Count 2 – Conspiracy to conduct an Illegal Gambling Business;
- Count 3 – Conspiracy to Manufacture, Distribute, and Possess with Intent to Distribute Controlled Substances;
- Count 4 – Distribution of Methamphetamine
- Count 5 – Distribution of Methamphetamine

Count 6 – Conspiracy to Possess and Distribute Hydrocodone
Count 15 – Distribution of Methamphetamine
Count 16 – Possession with Intent to Deliver Methamphetamine
Count 19 – Felon in Possession of Firearms and Ammunition
Count 22 – Felon in Possession of Ammunition

RICH is also charged in a separate indictment with conspiracy to distribute, and to possess with intent to distribute more than 100 kilograms of marijuana.

F. Maximum Penalties

As a result of these offenses, the maximum punishment for VERNON NELSON RICH is life in prison, with a 10 year mandatory minimum. In terms of a preliminary look at the sentencing guidelines, the base offense level for the RICO conspiracy is a Level 38 for the Methamphetamine Distribution. With a Criminal History Category VERNON NELSON RICH is likely looking at a recommended sentence of 262 to 327 months in prison if convicted at trial.

III. CONCLUSION

Based on the above proffered facts and the information contained in the Pretrial Services Report, the United States believes that there is no condition or combination of conditions that will reasonably assure the appearance of Defendant as required and the safety of any other person and the community. It is therefore respectfully requested that the Court order the detention of Defendant pending trial pursuant to the Bail Reform Act.

Respectfully submitted,

BARBARA L. McQUADE
United States Attorney

s/Saima S. Mohsin
SAIMA S. MOHSIN
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, MI 48226
(313) 226-9163
Saima.Mohsin@usdoj.gov

s/Eric M. Straus
ERIC M. STRAUS
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, MI 48226
(313) 226-9648
Eric.straus@usdoj.gov

Dated: July 16, 2012

CERTIFICATE OF SERVICE

I hereby certify that on July 16, 2012, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to the following:

Federal Defender's Office

BARBARA L. McQUADE
United States Attorney

s/Saima S. Mohsin
SAIMA S. MOHSIN
Assistant United States Attorney
211 W. Fort Street, Suite 2001
Detroit, MI 48226
(313) 226-9163
Saima.Mohsin@usdoj.gov